

## REMARKS

The present application has been reviewed in light of the Office Action dated September 22, 2008. Claims 2-9, 16, 17, 20, 21, 28, 30, 35, and 37 are presented for examination, of which Claims 2, 16, 28, and 35 are in independent form. Claims 1, 10-15, 18, 19, 22-27, 29, 31-34, 36, and 38-41 have been cancelled, without prejudice or disclaimer of the subject matter presented therein. Claims 2, 4, 6-9, 16, 20, 21, 28, 30, 35, and 37 have been amended to define aspects of Applicants' invention more clearly. Favorable reconsideration is requested.

The Office Action states that Claims 1-10, 13, 15, 22, 28, 31, 35, and 38 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,253,189 (Feezell), and that Claims 11, 12, 14, 16-21, 23-27, 29, 30, 32-34, 36, 37, 39-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Feezell in view of U.S. Patent Application Publication No. 2003/0070167 (Holtz), and further in view of U.S. Patent No. 6,985,882 (Del Sesto). Cancellation of Claims 1, 10-15, 18, 19, 22-27, 29, 31-34, 36, and 38-41 renders their rejections moot. For at least the reasons presented below, Applicants submit that independent Claims 2, 16, 28, and 35, together with the claims dependent therefrom, are patentably distinct from the cited references.

Claim 2 is directed to a system for buying and selling spots for advertisements, in which the system includes a central computer system, an agency unit, a facilitator unit, and an affiliate unit, each of which is connected to a global communications network. The computer system includes a memory system storing a computer-executable program that includes an agency module, a facilitator module, and an affiliate module, and a processor for executing the program.

Notable features of Claim 2 include, among other things, the features of the agency module being adapted to enable the authorized agency user to: “submit an availability request to the facilitator regarding the advertisement,” “view proposal information for a proposal from the facilitator regarding the availability request,” and “submit a response to the proposal to the facilitator.” As discussed in the previous Amendment filed on June 30, 2008, there are many situations in which an agency does not want to deal directly with an affiliate or a seller of spots for ads. For example, the agency may not have the time or the resources to deal with the many affiliates needed to air an ad in multiple geographical markets. To address this problem, the agency module of Claim 2 enables the agency to interact with a facilitator, so that the facilitator can make the arrangements for airing the ad. This allows the agency to focus on its core business of advertising instead of on issues relating to the scheduling of spots, the costs of the spots, and the like. For example, the agency module enables the agency to provide the facilitator with the requirements for the ad (e.g., geographical markets, desired spot times, cost ranges, etc.), so that the facilitator can, in turn, interact with an affiliate to arrange for spots meeting the agency’s requirements.<sup>1</sup>

By virtue of the agency module of Claim 2, the agency does not have to expend a great deal of time and money to schedule individual spots for the ad. Instead, the agency can easily communicate its requirements to the facilitator, who then can determine a schedule of spots for airing the ad.

Feezell is understood to relate to a time-slot exchange system that allows a seller (e.g., an affiliate) to market its available time slots, and that allows potential buyers (e.g., advertisers or agencies) to make bids for individual time slots. (See, for example, column 3,

---

<sup>1</sup> Examples presented herein are intended purely for illustrative purposes, and such examples are not to be construed to limit the scope of the claims.

lines 1-29.) Marketing and valuation data is provided for each of the time slots, so that all potential buyers have access to the same information. (See, for example, column 3, lines 8-16; column 5, line 38, to column 6, line 13.)

Applicants understand the Feezell system to market each available time slot individually; thus, in order for an ad to be shown in 5 geographical markets for 10 times per day for 3 weeks, for example, at least *1050 different bids* must be made to achieve the desired schedule. Clearly, while the Feezell system may facilitate the buying and selling of individual time slots or spots, that system would be cumbersome to use for buyers that want a complicated schedule of multiple spots covering multiple markets and spanning an extended time frame.

The system of Claim 2 differs from the Feezell system, and avoids the above-mentioned problems of the Feezell system, by enabling an agency user to submit an availability request to a facilitator regarding spots for an ad, and to obtain a proposal from the facilitator in response to the availability request. Thus, the system of Claim 2 allows the agency to arrange for a complicated schedule of spots for the ad simply by submitting a request to the facilitator.

The Office Action points to column 9, lines 32-52, and Figs. 4 and 5 of Feezell as disclosing the above-mentioned notable features of Claim 2. Applicants respectfully submit, however, that the cited portion of Feezell states the following and does not teach or suggest submitting an availability request to a facilitator regarding spots for an ad:

The program<sub>13</sub>name is the title of the program. If the program is an episode of a series of programs, the program<sub>13</sub>name can include both the series name and the episode name. The program<sub>13</sub>id is typically a number associated with the specific program (e.g., series episode). The program<sub>13</sub>id can be correlated to other data sets stored on database 405, such as marketing and valuation data.

Marketing and valuation data assists the seller and/or buyer to value a time slot, and helps the buyer to determine important viewership properties of the time slot. The present invention can advantageously receive, index,

and make available marketing and valuation data from a variety of sources. For example, the program\_id can be correlated to a ratings data set provided by an objective independent ratings agency (IRA). A record in the IRA ratings data set correlated with a particular time slot can include critics' notes, audience ratings, content notes and viewership estimates for the program.

Marketing and valuation data can also be provided by the broadcaster. For example, such data can include information regarding the program, the viewership reached by the broadcaster, and so on. Marketing and valuation data is advantageously made available to a buyer 403 and seller 402 clients by the TSES 406, enabling both buyer and seller to make better informed trading decisions (such as pricing and valuation.)

Clearly, the Feezell system is intended to be used for the buying and selling ads one at a time.

Moreover, it is respectfully submitted that Fig. 4 of Feezell merely shows a flow chart of a transaction in which a buyer requests and receives time-slot information, makes a bid, and receives ownership of a slot. Applicants note that the “request” in step 302 of Fig. 4 results in the buyer being provided with time-slot information (e.g., marketing data, valuation data) and does not result in the buyer receiving a proposal with a schedule of spots for an ad. Further, Fig. 5 of Feezell merely relates to the debiting and crediting of financial accounts, and in no way suggests the above-mentioned notable features of Claim 2.

In summary, nothing has been found in Feezell that is believed to teach or suggest a system for buying and selling spots for advertisements, in which the system includes a central computer system with “a memory system storing a computer-executable program that includes an agency module, a facilitator module, and an affiliate module,” in which the agency module is adapted to enable an authorized agency user to: “submit an availability request to the facilitator regarding spots for the advertisement,” and “view proposal information for a proposal from the facilitator regarding the availability request,” and “submit a response to the proposal to the facilitator,” and “if the proposal is accepted by the agency, view order information for an order to

the affiliate regarding the advertisement, the order information including a schedule of spots for the advertisement,” as recited in Claim 2. Accordingly, Applicants submit that Claim 2 is not anticipated by Feezell and therefore respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b).

In regard to the other cited references, Del Sesto is discussed extensively in the Amendment filed on June 30, 2008, and Holtz is understood to relate to a system for managing and automating the sale and distribution of an ad. Neither Del Sesto nor Holtz is seen to remedy the deficiencies of Feezell discussed above. Therefore, Applicants submit that Claim 2 is patentable over any permissible combination of Feezell, Del Sesto, and Holtz.

Independent Claims 16, 28, and 35 include one or more features similar to those discussed above in connection with Claim 2, and are believed to be patentable for at least the reasons discussed above. Also, the other claims in the present application depend from one or another of Claims 2, 16, 28, and 35, and therefore are submitted to be patentable for at least the same reasons. However, because each dependent claim also is deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and an early passage to issue of the present application.

\* \* \* \* \*

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Lock See Yu-Jahnes/

---

Lock See Yu-Jahnes  
Attorney for Applicants  
Registration No. 38,667

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

FCBS\_WS 2774260\_3.DOC